

**Notice of Allowability**

Application No.

10/727,682

Applicant(s)

PICKERING, TERRI

Examiner

Art Unit

David C. Reese

3677

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6 September 2005.
2. ☒ The allowed claim(s) is/are 1-4, 7, 10 and 13-17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### **DETAILED ACTION**

This office action is in response to Applicant's amendment filed 9/6/2005.

#### ***Status of Claims***

- [1] Claims 1-4, 7, 10, 13-17 are allowable /in view of the examiner's amendment below.

#### ***Claim Objections***

- [2] Applicant has addressed all objections to the Claims in the amendment filed 9/6/2005.

Accordingly, all objections to the disclosure have been withdrawn by the Examiner.

#### ***Allowable Subject Matter***

- [3] Claims 1-4, 7, 10, 13-17 are allowed.

#### ***Examiner's Amendment***

- [4] An examiner's amendment to the record appears below. Authorization for this examiner's amendment was given in a telephone conversation with Mr. Waller on 9/27/2005.

The examiner has amended the application as follows:

#### **In the Claims:**

**Please replace Claim 1 with the following:**

**1.** (Currently Amended). An earring for a pierced ear comprising:

(a) a shaft, said shaft being mounted on a base;

(b) a connector having a top surface and a bottom surface, a cavity with means for engaging said shaft for fitting flush against a pierced ear on said bottom surface and an adapter projecting from said top surface of the connector, said adapter being a nipple; and

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(c) a cap having a cavity to receive said adapter on one side and a decorative aspect of the earring attached on the other side, said cap comprising a flexible component capable of expanding to receive said nipple and retracting to grasp said nipple when said nipple and said cavity are pressed together.

**Please replace Claim 10 with the following:**

10 (Currently Amended). A method of wearing an earring for a pierced ear comprising a shaft, said shaft having a base; a connector having a top surface and a bottom surface, a cavity with means for engaging said shaft for fitting flush against a pierced ear on said bottom surface and an adapter projecting from said top surface of the connector, said adapter being a nipple; and a cap having a cavity to receive said adapter on one side and a decorative aspect of the earring attached on the other side, said cap comprising a flexible component capable of expanding to receive said nipple and retracting to grasp said nipple when said nipple and said cavity are pressed together comprising the step of:

(a) inserting said shaft through a pierced ear wherein said base is capable of fitting flush against a back of a pierced ear and said shaft protrudes from a front of a pierced ear;

(b) affixing said connector onto said shaft by inserting said shaft into said cavity wherein said adapter is positioned away from a front of a pierced ear; and

(c) affixing said cap to said adapter such that said decorative aspect is positioned away from a front of a pierced ear.

**Please replace Claim 13 with the following:**

13 (Currently Amended). An earring for a pierced ear comprising:

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- (a) a shaft, said shaft being mounted on a base;
- (b) a connector having a top surface and a bottom surface, a cavity with means for engaging said shaft for fitting flush against a pierced ear on said bottom surface and an adapter projecting from said top surface of the connector, said adapter being a pin having a flat head extending perpendicularly from the top surface of said connector; and
- (c) a cap having a key-hole-shaped slot capable of receiving said pin head of said adapter on one side and a decorative aspect of the earring attached on the other side.

**Please replace Claim 17 with the following:**

17 (Currently Amended), A method of wearing an earring for a pierced ear comprising a shaft, said shaft being mounted on a base; a connector having a top surface and a bottom surface, a cavity with means for engaging said shaft for fitting flush against a pierced ear on said bottom surface and an adapter projecting from said top surface of the connector, said adapter being a pin having a flat head extending perpendicularly from the top surface of said connector; and a cap having a keyhole-shaped slot capable of receiving said pin head of said adapter on one side and a decorative aspect of the earring attached on the other side comprising the step of:

- (a) inserting said shaft through a pierced ear wherein said base is capable of fitting flush against a back of a pierced ear and said shaft protrudes from a front of a pierced ear;
- (b) affixing said connector onto said shaft by inserting said shaft into said cavity wherein said adapter is positioned away from a front of a pierced ear; and
- (c) affixing said cap to said adapter such that said decorative aspect is positioned away from a front of a pierced ear.

*Reasons for Allowance*

[5] The following is an examiner's statement of reasons for allowance: the prior art, including DiDomenico, Baughman, Kogen, and Float et al., and Fountoulakis either alone or in combination with corresponding limitations as stated above, fails to teach or disclose of the positional interrelationship between the shaft, base, connector with adapter, and cap; with said cap being able to receive said adapter by expanding to receive said nipple and retracting to grasp said nipple when the two are press together; as well as an alternate embodiment with the cap possessing keyhole-shaped slot capable of receiving a pin head of said adapter. Therein lies no motivation to combine the nipple structure of Baughman to that of DiDomenico since Baughman shows of a connector possessing both a shaft and cavity to receive said nipple as opposed to the base maintaining the shaft, and cap possessing the cavity to receive nipple as currently claimed in the instant invention.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee, and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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*Conclusion*

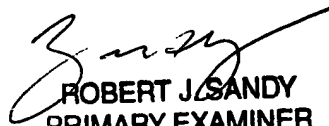
[6] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is 571-272-7082. The examiner can normally be reached on 7:30 am - 6:00 pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. **Please also note the change in the fax phone number to (571) 273-8300 for the organization where this application or proceeding is assigned.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,  
David Reese  
Assistant Examiner  
Art Unit 3677

DCR

  
ROBERT J. SANDY  
PRIMARY EXAMINER